

W OCA 86-3451

OFFICE OF CONGRESSIONAL AFFAIRS

Routing Slip

	ACTION	INFO
1. D/OCA		X
② DD/Legislation	X	
3. DD/Senate Affairs		X
4. Ch/Senate Affairs		
5. DD/House Affairs		X
6. Ch/House Affairs		
7. Admin Officer		
8. Executive Officer		X
9. FOIA Officer		
10. Constituent Inquiries Officer		
11. <input type="text"/>		X
12.		

SUSPENSE

15 Oct 86
Date

Action Officer:

Remarks:

PER LTR. DTD
ACTION COMPLETED 10 OCT 86

9 Oct 86

Name/Date

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**EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D. C. 20503**

10/8/86

ENROLLED BILL REQUEST

In accordance with OMB Circular No. A-19, your written views and recommendation for Presidential action are requested on the following enrolled bill(s) (facsimile(s) attached):

H.R. 4718

Please consult section 10 of OMB Circular A-19, pages 12-14, for instructions regarding the preparation of enrolled bill letters and the procedures to be followed on enrolled bills.

Within **TWO DAYS** (including holidays but excluding Sundays) after receipt of this request, your reply (original and one copy) should be delivered **VIA SPECIAL MESSENGER** to Mrs. Julia Yuille, Room 7201, New Executive Office Building.

Your cooperation in meeting this deadline is needed to provide maximum time for Presidential action on the enrolled bill(s).

James M. Frey
Assistant Director for
Legislative Reference

ATTENTION:

CIA

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Central Intelligence Agency



Washington, D.C. 20505

OCA FILE LEG
RECEIPT # _____

OCA 86-3444

10 OCT 1986

The Honorable James C. Miller, III
Director
Office of Management and Budget
Washington, D.C. 20503

Dear Mr. Miller:

This is in response to your request for the views of the Director of Central Intelligence on enrolled bill H.R. 4718, the Computer Fraud and Abuse Act of 1986.

The Central Intelligence Agency and the National Security Agency have been concerned about the possible impact of computer fraud legislation on foreign intelligence collection operations for the past several years. We informed the intelligence oversight committees and the House and Senate Judiciary Committees of our concerns, and they responded by explicitly exempting lawfully authorized intelligence activities from the scope of the bill.

The inclusion of the intelligence exemption eliminates the concerns the Intelligence Community had with the bill. I therefore can recommend Presidential approval of this legislation.

Sincerely,

/s/ William J. Casey

William J. Casey
Director of Central Intelligence

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- 1 - OCA Registry (Referenced Action # OCA 86-3451)
- 1 - OCA/Legislation Subject File: Compute Fraud

OCA/Leg, [] (10 October 1986)

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86-3451
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D. C. 20503

10/8/86

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James M. Frey
Assistant Director for
Legislative Reference

ATTENTION:

CIA

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H. R. 4718

Ninety-ninth Congress of the United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Tuesday, the twenty-first day of January,
one thousand nine hundred and eighty-six*

An Act

To amend title 18, United States Code, to provide additional penalties for fraud and related activities in connection with access devices and computers, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the
United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the "Computer Fraud and Abuse Act of 1986".

SEC. 2. SECTION 1030 AMENDMENTS.

(a) MODIFICATION OF DEFINITION OF FINANCIAL INSTITUTION.—Section 1030(a)(2) of title 18, United States Code, is amended—

(1) by striking out "knowingly" and inserting "intentionally" in lieu thereof;

(2) by striking out "as such terms are defined in the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401 et seq.);";

(3) by striking out the term "or" where it appears at the end of section 1030(a)(2) of title 18; and

(4) by adding after the term "financial institution" the following: "or of a card issuer as defined in section 1602(n) of title 15,".

(b) MODIFICATION OF EXISTING GOVERNMENT COMPUTERS OFFENSE.—Section 1030(a)(3) of title 18, United States Code, is amended—

(1) to read as follows:

"(3) intentionally, without authorization to access any computer of a department or agency of the United States, accesses such a computer of that department or agency that is exclusively for the use of the Government of the United States or, in the case of a computer not exclusively for such use, is used by or for the Government of the United States and such conduct affects the use of the Government's operation of such computer."; and

(2) by striking out the flush language after section 1030(a)(3) of title 18, United States Code, beginning with "It is not an offense" and all that follows through "use of the computer.".

(c) MODIFICATION OF AUTHORIZED ACCESS ASPECT OF OFFENSES.—Paragraphs (1) and (2) of section 1030(a) of title 18, United States Code, are each amended by striking out ", or having accessed" and all that follows through "does not extend" and inserting "or exceeds authorized access" in lieu thereof.

(d) NEW OFFENSES.—Section 1030(a) of title 18, United States Code, is amended by inserting after paragraph (3) the following:

"(4) knowingly and with intent to defraud, accesses a Federal interest computer without authorization, or exceeds authorized access, and by means of such conduct furthers the intended fraud and obtains anything of value, unless the object of the

H. R. 4718—2

fraud and the thing obtained consists only of the use of the computer;

"(5) intentionally accesses a Federal interest computer without authorization, and by means of one or more instances of such conduct alters, damages, or destroys information in any such Federal interest computer, or prevents authorized use of any such computer or information, and thereby—

"(A) causes loss to one or more others of a value aggregating \$1,000 or more during any one year period; or

"(B) modifies or impairs, or potentially modifies or impairs, the medical examination, medical diagnosis, medical treatment, or medical care of one or more individuals; or

"(6) knowingly and with intent to defraud traffics (as defined in section 1029) in any password or similar information through which a computer may be accessed without authorization, if—

"(A) such trafficking affects interstate or foreign commerce; or

"(B) such computer is used by or for the Government of the United States."

(e) **ELIMINATION OF SECTION SPECIFIC CONSPIRACY OFFENSE.**—Section 1030(b) of title 18, United States Code, is amended—

(1) by striking out "(1)"; and

(2) by striking out paragraph (2).

(f) **PENALTY AMENDMENTS.**—Section 1030 of title 18, United States Code, is amended—

(1) by striking out "of not more than the greater of \$10,000" and all that follows through "obtained by the offense" in subsection (c)(1)(A) and inserting "under this title" in lieu thereof;

(2) by striking out "of not more than the greater of \$100,000" and all that follows through "obtained by the offense" in subsection (c)(1)(B) and inserting "under this title" in lieu thereof;

(3) by striking out "or (a)(3)" each place it appears in subsection (c)(2) and inserting ", (a)(3) or (a)(6)" in lieu thereof;

(4) by striking out "of not more than the greater of \$5,000" and all that follows through "created by the offense" in subsection (c)(2)(A) and inserting "under this title" in lieu thereof;

(5) by striking out "of not more than the greater of \$10,000" and all that follows through "created by the offense" in subsection (c)(2)(B) and inserting "under this title" in lieu thereof;

(6) by striking out "not than" in subsection (c)(2)(B) and inserting "not more than" in lieu thereof;

(7) by striking out the period at the end of subsection (c)(2)(B) and inserting "; and" in lieu thereof; and

(8) by adding at the end of subsection (c) the following:

"(3)(A) a fine under this title or imprisonment for not more than five years, or both, in the case of an offense under subsection (a)(4) or (a)(5) of this section which does not occur after a conviction for another offense under such subsection, or an attempt to commit an offense punishable under this subparagraph; and

"(B) a fine under this title or imprisonment for not more than ten years, or both, in the case of an offense under subsection (a)(4) or (a)(5) of this section which occurs after a conviction for another offense under such subsection, or an attempt to commit an offense punishable under this subparagraph."; and

H. R. 4718—3

(9) by deleting the term "(b)(1)" where it appears in the first line of section 1030(c) of title 18 and inserting in lieu thereof the term "(b)".

(g) CONFORMING AMENDMENTS TO DEFINITIONS PROVISION.—Section 1030(e) of title 18, United States Code, is amended—

(1) by striking out the comma after "As used in this section" and inserting a one-em dash in lieu thereof;

(2) by aligning the remaining portion of the subsection so that it is cut in two ems and begins as an indented paragraph, and inserting "(1)" before "the term";

(3) by striking out the period at the end and inserting a semicolon in lieu thereof; and

(4) by adding at the end thereof the following:

"(2) the term 'Federal interest computer' means a computer—

"(A) exclusively for the use of a financial institution or the United States Government, or, in the case of a computer not exclusively for such use, used by or for a financial institution or the United States Government and the conduct constituting the offense affects the use of the financial institution's operation or the Government's operation of such computer; or

"(B) which is one of two or more computers used in committing the offense, not all of which are located in the same State;

"(3) the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, and any other possession or territory of the United States;

"(4) the term 'financial institution' means—

"(A) a bank with deposits insured by the Federal Deposit Insurance Corporation;

"(B) the Federal Reserve or a member of the Federal Reserve including any Federal Reserve Bank;

"(C) an institution with accounts insured by the Federal Savings and Loan Insurance Corporation;

"(D) a credit union with accounts insured by the National Credit Union Administration;

"(E) a member of the Federal home loan bank system and any home loan bank;

"(F) any institution of the Farm Credit System under the Farm Credit Act of 1971;

"(G) a broker-dealer registered with the Securities and Exchange Commission pursuant to section 15 of the Securities Exchange Act of 1934; and

"(H) the Securities Investor Protection Corporation;

"(5) the term 'financial record' means information derived from any record held by a financial institution pertaining to a customer's relationship with the financial institution;

"(6) the term 'exceeds authorized access' means to access a computer with authorization and to use such access to obtain or alter information in the computer that the accesser is not entitled so to obtain or alter; and

"(7) the term 'department of the United States' means the legislative or judicial branch of the Government or one of the executive departments enumerated in section 101 of title 5."

(h) LAW ENFORCEMENT AND INTELLIGENCE ACTIVITY EXCEPTION.—Section 1030 of title 18, United States Code, is amended by adding at the end the following new subsection:

H. R. 4718—4

“(f) This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a political subdivision of a State, or of an intelligence agency of the United States.”.

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*